

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF ILLINOIS

JOSEPH LUCAS,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 3:23-cv-56
	)	
BLANKENSHIP CONSTRUCTION CO.;	)	
DOUG BLANKENSHIP; and	)	
NATHAN MARLEN, individually	)	
and in his capacity as Trustee of the	)	
James E. Marlen and JoAnn Marlen	)	
Declaration of Trust, Dated January 27,	)	
2010,	)	
	)	
Defendants.	)	

**JOINT MOTION TO MODIFY MANDATORY  
MEDIATION REFERRAL ORDER AND DECEMBER 29, 2023 ORDER**

Plaintiff and Defendants, under Section 3.1(c)(2) of the Court's Mandatory Mediation Plan, jointly move the Court for an order extending to February 7, 2024 the parties' deadline to complete the two-hour mandatory mediation session in this matter. In further support of their motion, the parties state as follows:

1. The Court's Mandatory Mediation Referral Order requires the parties to complete a two-hour mandatory mediation session no later than December 22, 2023, or 30 days before the discovery cut-off date. Per that order, the mandatory mediation proceedings must be completed no later than February 7, 2024, or 15 days after the discovery cut-off date. ECF No. 24.

2. On June 6, 2023, the parties filed their Stipulation Selecting Mediator, advising the Court that Stephen Williams had agreed to serve as the parties' mediator for this matter.

3. The parties have nearly completed written discovery and on August 31, 2023 finished the depositions of the Blankenship Defendants. The depositions of Plaintiff and of Defendant Marlen were scheduled to begin the same day but were postponed later that day.

4. Following the Blankenship Depositions, Plaintiff moved and was granted leave to amend his Complaint to assert claims against the James E. Marlen and JoAnn Marlen Declaration of Trust, based upon new information that arose during the Blankenship deposition.

5. Plaintiff filed his First Amended Complaint on October 6, 2023.

6. Following motion practice, Defendants answered the amended pleading on November 20, 2023.

7. The depositions of Defendant Marlen and of Plaintiff are scheduled for January 10, 2024 pursuant to deposition notices served November 28, 2023. No additional depositions beyond the parties' depositions are scheduled or anticipated at this time.

8. The parties have not yet completed their two-hour mandatory mediation session.

9. On December 29, the Court ordered the parties to complete the two-hour mandatory mediation session and file a status update by January 5, 2024.

10. Section 3.1(c)(2) of the Court's Mandatory Mediation Plan authorizes the Court, in its discretion, to modify the deadlines for completing mandatory mediation proceedings.

11. The parties respectfully submit that a mediation will be far more productive if done after the depositions of Plaintiff and Defendant Marlen, not before.

12. The parties do not wish to opt out of the mandatory mediation requirement.

13. The parties have been in recent contact with Stephen Williams and are endeavoring to schedule a mediation with him for the second half of January so that they may complete the mandatory mediation proceedings by the current February 7, 2024 deadline. They are hopeful that they can do so. Mr. Williams provided his availability; counsel are conferring.

14. The parties regret that they did not meet the Court's deadline for the mandatory two-hour mediation session or file this request before the December 22 deadline, but submit that

their failure was not in bad faith or done to unduly delay these proceedings. Rather, their failure to complete the two-hour session or file this request by December 22 was inadvertent.

15. Under the circumstances, good cause exists to modify the Court's Mandatory Mediation Referral Order and December 29, 2023 order, as requested herein.

WHEREFORE, the parties respectfully request that the Court grant their motion and grant the parties leave to complete the two-hour mandatory mediation session, and file a status update with the Court, no later than February 7, 2024.

Dated: January 2, 2024.

Respectfully submitted,  
POL SINELLI PC

By: /s/ Britton St. Onge  
Britton St. Onge  
Jon A. Bierman (pro hac vice)  
100 S. Fourth Street, Suite 1000  
St. Louis, MO 63102  
Tel. 314.889.8000  
Fax: 314.231.1776  
bstonge@polsinelli.com  
jbierman@polsinelli.com

*Attorneys for Plaintiff Joseph Lucas*

Respectfully submitted,  
BROWN & JAMES, P.C.

By: /s/ John Cunningham (with consent)  
John P. Cunningham, #6193598  
Richland Plaza I, 525 W. Main St., Ste. 200  
Belleville, IL 62220-1547  
[jcunningham@bjpc.com](mailto:jcunningham@bjpc.com)

*Attorney for Defendant Nathan Marlen*

Respectfully submitted,  
SILVER LAKE GROUP, LTD.

By: /s/ Thomas G. DeVore (with consent)  
Jeffrey A. Mollet  
Thomas G. DeVore  
560 Suppiger Way  
P.O. Box 188  
Highland, IL 62249  
jeff@silverlakelaw.com  
tom@silverlakelaw.com

*Attorneys for Defendants Blankenship  
Construction Company and Doug  
Blankenship*

Respectfully submitted,  
BLEYER AND BLEYER

By: /s/ Joseph Bleyer (with consent)  
Joseph A. Bleyer, #6193192  
601 West Jackson Street  
P.O. Box 487  
Marion, IL 62959-0487  
[jableyer@bleyerlaw.com](mailto:jableyer@bleyerlaw.com)

*Attorney for Defendant Nathan Marlen*

### CERTIFICATE OF SERVICE

I hereby certify that on January 2, 2024, I electronically filed the foregoing via the Court's ECF system, which sent electronic notices of the above to the following counsel of record:

Jeffrey A. Mollet  
Thomas G. DeVore  
Silver Lake Group, Ltd.  
560 Suppiger Way  
P.O. Box 188  
Highland, IL 62249  
[jeff@silverlakelaw.com](mailto:jeff@silverlakelaw.com)  
[tom@silverlakelaw.com](mailto:tom@silverlakelaw.com)

*Attorneys for Defendants Blankenship  
Construction Company and Doug  
Blankenship*

John P. Cunningham, #6193598  
Daniel G. Hasenstab, #6280171  
BROWN & JAMES, P.C.  
Richland Plaza I, 525 W. Main St., Ste. 200  
Belleville, IL 62220-1547  
[jcunningham@bjpc.com](mailto:jcunningham@bjpc.com)  
[dhasenstab@bjpc.com](mailto:dhasenstab@bjpc.com)

Joseph A. Bleyer, #6193192  
BLEYER AND BLEYER  
601 West Jackson Street  
P.O. Box 487  
Marion, IL 62959-0487  
[jableyer@bleyerlaw.com](mailto:jableyer@bleyerlaw.com)

*Attorneys for Defendant Nathan Marlen*

/s/ Britton St. Onge  
Britton St. Onge